

REMARKS

Claim 28 is pending in this application. Claim 28, line 12 has been amended; this addresses antecedent basis raised by the Examiner in the interview dated July 9, 2008. Claim 28 is amended at lines 27-28, and as to the subject matter thereof, see, e.g., Applicants' Fig. 16, item 1607 and paragraph [0058] of the specification; this follows the Examiner's comments proposing an amendment in this direction in the interview dated July 9, 2008. Claim 28 is amended at lines 28-29, and as to the subject matter thereof, see, e.g., Applicants' specification at page 15, lines 9, 16, 18 and Figs. 14-15; this follows the Examiner's comments dated July 9, 2008.

Follow-up is in progress on the Examiner's query in the interview dated July 9, 2008 about whether a system according to the claimed invention has been sold or published before the application.

Drawings

In the office action, the drawings have received an objection, with regard to Figs. 9-13, for failure to comply with 37 CFR 1.84(p)(5).

Applicants respectfully respond that there is no violation of 37 CFR 1.84(p)(5), which regulation provides: "Reference characters not mentioned in the description shall not appear in the drawings. Reference characters mentioned in the description must appear in the drawings." There is no instance of a reference character appearing in Figs. 9-13 but being missing in the specification. Nor is there an instance of a reference character appearing in the specification but being missing from a figure. Therefore the drawings comply with 37 CFR 1.84(p)(5). The gist of the objection in the office action is that the Examiner seeks more reference numbering, but the cited regulation does not provide authority for such a purported requirement to be made.

Specification

In the office action, the specification has received an objection for not including any reference character(s) for Figs. 9-13.

Applicant respectfully responds that there has been given no legal basis why purportedly Applicant would be required to amend the specification. There is believed to be no legal basis for the Examiner's request for "correction".

Obviousness Rejection

At page 3 of the office action, Claim 28 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi (1980) in view of Habichler (US 2007/0203710) further both in view of Clark (US 5,164,897) and Kintner (US 6,732,079).¹

Applicants respectfully traverse this obviousness rejection.

Clearly the primary reference, Vardi, is very removed from Applicants' Claim 28. Vardi lacks many steps of Applicants' Claim 28. Vardi is nothing like Applicants' "computer implemented method for designing and planning workforce evolution" set forth in Claim 28, and to a person of ordinary skill in the art, Applicants' Claim 28 is impossibly far from Vardi. The path that the Examiner hypothesizes for allegedly getting from Vardi to Applicants' Claim 28 cannot, objectively speaking, be attributed to a person of ordinary skill in the art.

Moreover, Vardi is even more removed from Applicants' Claim 28 than the Examiner has admitted, for at least the following four further differences. First, Vardi (1980) fails to teach or disclose a computer implemented method (see Applicants' Claim 28, line 1). Second, Vardi fails to teach or disclose "designing and planning workforce evolution" or even in any sense being concerned with "workforce" (see Applicants' Claim 28, lines 1-2). Third, Vardi fails to teach or disclose any "computing" (see Applicants' Claim 28, lines 10, 19, 23, 25). Fourth, Vardi fails to

¹The Examiner admits that the following recited in Applicants' Claim 28 are lacking in Vardi:

- "A) identifying a portfolio of candidate workforce organizational topologies";
- "B) identifying an original workforce organizational topology, said topology specifying viable paths from one node to another node in the workforce organizational topology";
- "C) comparing said candidate topologies for suitability of employment against a mix of workforce topological internal and external constraints";
- "E) ... 3) identifying a present state";
- "E) ... 4) computing an achievable state of the workforce";
- "F) identifying feasibility of target states of the workforce, said feasibility identifying step comprising the steps of: 1) identifying one or more target states";
- "F) ... 2) computing achievable states and checking whether the achievable states are one of the target states";
- "F) ... 3) ... computing elements of the space of controlled evolution rates, which after implementation would result in one of the target states, or identifying that no such element of the space of controlled evolution rates exists".

teach or disclose computing cost (see Applicants' Claim 28, line 10) or minimizing cost (id., line 11).

Vardi's 1980 work (page 347) was oriented towards "developing a research model." "The main thrust at this stage is to delineate a model of the determinants of actual mobility in organizations." (Vardi, page 347.) Vardi (1980) explains, "To date, no comprehensive model has been offered that would help us explain and predict actual mobility patterns by accounting for both individual-level and organizational-level variables, their relative weight, and their interaction effects." (Page 347) Vardi's model is his Figure 2 (page 348) which is neither computer-implemented, nor anything remotely close to Applicant's Claim 28. As Vardi says (page 352), "The model described in this article is offered as a springboard toward much-needed systematic and applicable research in the field of organizational career mobility." To Vardi, "core issues" are "what factors determine career mobility in organizations and what individuals in them can expect." (Page 352.) But "career mobility" in Vardi is about an individual, not about a workforce. A person of ordinary skill in the art would lack motivation to twist and turn Vardi into something else, in another direction and taking another perspective.

Also, Vardi is devoid of any computational approach therefore it is completely beyond the ability of a person of ordinary skill in the art at the time of Applicants' invention to change the approach of Vardi so dramatically in a direction of a computation-based approach. Rather, Vardi's disclosure is at a generalized, non-numerical level. For example, Vardi discusses that "if the recruiters for a highly specialized R&D company promise every candidate rapid upward mobility or a quick rotation through various units, they are probably ignoring the OCM reality in their firm. High specialization, restricted funding, flat structure, and other factors make such promises undeliverable." (Page 352.) Vardi does not want individual recruits to be told something about their career path which will not occur. Vardi states (page 352), "Our approach ... calls for extending the realistic *job* preview method suggested by Wanous [1975] to a realistic *career* preview." Vardi's perspective is of an individual's career path, not of a whole workforce's evolution. Moreover, Vardi takes no account at all of cost.

When the Examiner resorts to the secondary reference, Habichler, titled "Managing future career paths," again, the perspective of Habichler, like Vardi's, is an individual's career, not a

workforce's evolution. Referring to Habichler's Figs. 5A-5B, 7A-7D, 8D, see that the screens are expressed for use by the employee such as in terms of "My Current Work Position", "My Current Skills", "My Recommended Learning", etc. Also, Habichler, like Vardi, takes no account at all of cost to the employer.

Neither Vardi nor Habichler is "A computer implemented method for designing and planning workforce evolution" (Applicants' Claim 28, lines 1-2).

Moreover, generally speaking, a person of ordinary skill in the art at the time of Applicant's invention would have no reason, if he wanted to design and plan workforce evolution, to try to begin with Vardi or Habichler to come up with a workforce evolution method. Rather, he or she would have started with existing work, of course from a business management perspective, regarding workforce. For example, it is impossible that a person of ordinary skill in the art at the time of Applicant's invention would have tried to start with Vardi or Habichler to come up with a computer-implemented method for designing and planning workforce evolution, because such a person instead could begin with work such as Kintner (to GMC) titled "Method of determining the best mix of regular and contract employees." It is objectively unrealistic to hypothesize that a person of ordinary skill in Applicants' art would start with a non-computer-implemented, non-computational model in Vardi from an individual-employee perspective with no concern at all for computing cost; the much more logical starting point was a computational model in Kintner which clearly is from a management perspective and computes cost.

Nor is Clark particularly pertinent. Clark, titled "Automated method for selecting personnel matched to job criteria," is merely an automated system for matching job candidates with jobs. Clark is a long way from a "method for designing and planning workforce evolution" (Applicants' Claim 28, lines 1-2).

The assumption underlying the obviousness rejection that the four references would be freely combined with each other is not a valid assumption. A person of ordinary skill in the art would not intermix, in the manner that has been theorized in the office action, references from an individual employee's perspective with quite-different references about workforce planning which are from a business' management's perspective.

Indeed, each of the four references on which the obviousness rejection is based is strong

evidence of how far the state of art was from Applicants' Claim 28. The four references fail to teach or suggest Applicants' Claim 28 (or even anything close) to a person of ordinary skill in the art at the time of Applicant's invention.

Reconsideration and withdrawal of the obviousness rejection are sought.

In view of the foregoing, it is requested that the application be reconsidered, that claim 28 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at 703-787-9400 to discuss any other changes deemed necessary in a telephonic or personal interview.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account 50-0510 (IBM-Yorktown).

Respectfully submitted,



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